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DEPARTMENT OF COMMERCE
International Trade Administration
[A-570-831]

Fresh Garlic from the People's Republic of China: Initiation of New Shipper Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (Department) has determined that two requests for a new shipper review (NSR) under the antidumping duty order on fresh garlic from the People's Republic of China (PRC), meet the statutory and regulatory requirements for initiation. The period of review (POR) is November 1, 2010, through October 31, 2011.

EFFECTIVE DATE: [Insert date of publication in the Federal Register.]

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SUPPLEMENTARY INFORMATION:

Background

The Department published the antidumping duty order on fresh garlic from the PRC in the Federal Register on November 16, 1994. See Antidumping Duty Order: Fresh Garlic From the People's Republic of China, 59 FR 59209 (November 16, 1994). On November 16, 2011, and November 30, 2011, the Department received timely NSR requests from Foshan Fuyi Food Co., Ltd. (Fuyi) and Qingdao May Carrier Import & Export Co., Ltd. (Maycarrier) in accordance with section 751(a)(2)(B)(i) of the Tariff Act of 1930, as amended (the Act), and 19 CFR §351.214(c).

Pursuant to the requirements set forth in 19 CFR §351.214(b), Fuyi certified that it is the exporter and Jinxiang Shenglong Trade Co., Ltd. (Shenglong) certified that it is the producer of the fresh garlic exported by Fuyi; Maycarrier certified that it is the exporter and Yishui Hengshun Food Co., Ltd. (YHFC) certified that it is the producer of the fresh garlic exported by Maycarrier. Moreover, Fuyi, Shenglong, Maycarrier and YHFC each certified that: (1) they did not export fresh garlic for sale to the United States during the period of investigation (POI); (2) since the investigation was initiated, they have never been affiliated with any exporter or producer who exported the subject merchandise to the United States during the POI, including those not individually examined during the investigation; and (3) their export activities are not controlled by the central government of the PRC. In addition, Fuyi and Maycarrier submitted documentation establishing the following: (1) the date on which fresh garlic was first entered; and (2) the volume of that and subsequent shipments; and (3) the date of the first sale to an unaffiliated customer in the United States.

The Department queried the database of U.S. Customs and Border Protection (CBP) in an attempt to confirm that shipments reported by Fuyi and Maycarrier had entered the United States for consumption and that liquidation had been properly suspended for antidumping duties. The information which the Department examined was consistent with that provided by Fuyi and Maycarrier in their requests. See Memorandum to The File from The Team, “Fresh Garlic from People’s Republic of China: Initiation of Antidumping New Shipper Review for Foshan Fuyi Food Co., Ltd.”; see also Memorandum to The File from The Team, “Fresh Garlic from People’s Republic of China: Initiation of Antidumping New Shipper Review for Qingdao Maycarrier Import & Export Co., Ltd.”

Period of Review

In accordance with 19 CFR §351.214(g)(1)(i)(A), the POR for an NSR initiated in the month immediately following the anniversary month will be the twelve-month period immediately preceding the anniversary month. Therefore, the POR for this NSR is November 1, 2010, through October 31, 2011. The sales and entries into the United States of subject merchandise exported by Fuyi and Maycarrier and produced by Shenglong and YHFC, respectively, occurred during this twelve-month POR.

Initiation of New Shipper Reviews

Pursuant to section 751(a)(2)(B) of the Act and 19 CFR §351.214(b), and the information on the record, the Department finds that the requests submitted by Fuyi and Maycarrier meet the threshold requirements for initiation of an NSR of their shipments of fresh garlic from the PRC. The Department intends to issue the preliminary results within 180 days after the date on which these reviews are initiated, and final results within 90 days after the date on which preliminary results are published, in accordance with section 751(a)(2)(B)(iv) of the Act.

It is the Department's usual practice, in cases involving non-market economies, to require that a company seeking to establish eligibility for an antidumping duty rate separate from the country-wide rate provide evidence of de jure and de facto absence of government control over the company's export activities. Accordingly, we will issue questionnaires to Fuyi and Maycarrier which will include a separate rate section. The review of the exporter will proceed if the response provides sufficient indication that the exporter is not subject to either de jure or de facto government control with respect to the export of fresh garlic.

We will instruct CBP to allow, at the option of the importer, the posting, until the completion of the review, of a bond or security in lieu of a cash deposit for certain entries of the

subject merchandise from Fuyi and Maycarrier in accordance with section 751(a)(2)(B)(iii) of the Act and 19 CFR §351.214(e). Specifically, the bonding privilege will only apply to entries of subject merchandise exported by Fuyi which have been produced by Shenglong, because it certified that the sale of subject merchandise documented in its NSR request was produced by Shenglong. Likewise, the bonding privilege will only apply to entries of subject merchandise exported by Maycarrier which have been produced by YHFC, because Maycarrier certified that the subject merchandise documented in its NSR request was produced by YHFC.

Interested parties requiring access to proprietary information in this NSR should submit applications for disclosure under administrative protective order in accordance with 19 CFR §351.305 and §351.306.

This initiation and notice are in accordance with section 751(a)(2)(B) of the Act and 19 CFR §351.214 and §351.221(c)(1)(i).

Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

December 23, 2011 _____
Date

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